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| 10/625,456                             | 07/22/2003  | Ian Zenoni           | 2050.124US1                | 9167             |
| 44367                                  | 7590        | 01/05/2009           |                            |                  |
| SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV |             |                      | EXAMINER                   |                  |
| P.O. BOX 2938                          |             |                      | STOKELY-COLLINS, JASMINE N |                  |
| MINNEAPOLIS, MN 55402-0938             |             |                      |                            |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/625,456

**Applicant(s)**

ZENONI, IAN

**Examiner**

JASMINE STOKELY-COLLINS

**Art Unit**

2423

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8-27, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date 9/16/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 9/16/2008 have been fully considered but they are not persuasive.
2. On page 9 of applicant's remarks, applicant alleges that Arai does not disclose obtaining computer software through a broadcast along with television programming. The applicant provides no further arguments to support that assertion. The examiner maintains that Arai teaches the above limitation, and that the idea is in fact the crux of his invention. Arai's abstract states "A guide of a broadcasting program with a computer software product...Also, files of the computer software product are transmitted from the center station to each terminal with video-audio data of the broadcasting program at the transmission start time." Obtaining computer software through a broadcast along with television programming is clearly taught by Arai.
3. On page 9 of applicant's remarks, applicant argues that Schrader's teachings are contrary to amended claim 1 limitation where the enhancement selection is broadcasted. The examiner disagrees; Applicant points to the embodiment illustrated in figure 2 of Schrader, where a backchannel is used to send IP data through the Internet. However, Schrader also discloses an alternative embodiment in figure 1 in which the enhancements is broadcasted through the same satellite as the broadcast television programming. Therefore, Schrader does teach the option of broadcasting enhancements.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al (US 2002/0157099 A1) in view of Arai et al (US 6,532,591 B1).

Regarding claim 1, Schrader teaches a method of transferring data elements of a data structure (enhanced IP content) to a receiving unit in a broadcast video system (page 3, section 0033), the method comprising: enhancement computer program code (pg. 7 sect. 0065 "The CPU executes software designed to implement features of the client system 100 including features of the present invention", pg. 7 sect. 0066 "Computer readable instructions or data, including an application program 544, other program modules 546 and an electronic program guide (EPG) database") in a plurality of receiving units including said receiving unit (pg. 3, sect. 0033 refers to multiple client systems) wherein said code defines a data structure within a memory of said receiving units (pg. 9 sect. 0078), provides a menu (navigation guide, pg. 9 sect. 0078) having a plurality of enhancement selections (figure 9: on now, on later, scores, news),

associates an identifier (Event ID) with at least one enhancement selection (figure 9: element 918 with plurality of buttons) of said plurality of enhancement selections, and enables said receiving unit to request for and acquire data using said identifier (figure 3: Event ID, as explained in page 8 sections 0073-75) including requesting for said at least one enhancement selection of said plurality of enhancement selections to be included in another broadcast (if a user selects ON NOW, the data associated with the EventIDs that are linked to ON NOW will be sent to the user, where data is broadcasted through the same satellite system 104 as television content in fig. 1).

accessing (by selecting one of the buttons of element 918 of figure 9, e.g. "on now") a plurality of data elements (figure 9: element 916 is presented) such that at least one data element (figure: element 916, i.e., NFL scores) corresponds to said at least one enhancement selection (figure 9: element 918 "ON NOW" is selected);

associating said identifier with said at least one data element (page 8 sections 0073-74);

broadcasting said at least one data element and said identifier to said plurality of receiving units including said receiving unit (pages 8-9 section 0076);

accessing a second data element corresponding to said at least one enhancement (figure 9 element 916 MLB scores is further presented after the first data element, i.e. NFL scores, is presented/accessed); and

associating said identifier with said second data element (page 8, sections 0073-74). broadcasting said second data element and said identifier to said plurality of receiving units including said receiving unit (pages 8-9 section 0073-0076).

Schrader does not teach broadcasting said enhancement computer program code

Arai teaches obtaining computer software through a broadcast along with television programming (col. 1 ll. 9-14). It would have been obvious to one of ordinary skill in the art to broadcast updated computer software, such as the enhancement computer program (navigation guide) disclosed in Schrader (e.g. fig. 8) along with the interleaved television programming and data services for the benefit of being able to update navigation guide software more frequently.

Regarding claim 2, Schrader further discloses accessing a third data element (news alert, page 8 section 0075) that corresponds to another enhancement selection (figure 9: element 916: News) of said plurality of enhancement selections; associating another identifier with said third data element (page 8 section 0075: Event ID); and broadcasting said third data element and said identifier to said plurality of receiving units including said receiving unit (block 620, as explained in pgs. 8-9 sect. 0076).

Regarding claim 3, Schrader updating information, using updated sports scores as an example, i.e., updated sports scores replace the original scores in memory (page 11, section 0096) satisfies limitation "wherein said second data element replaces said first data element in said data structure in said receiver".

Regarding claim 4, Schrader further teaches computer program code (application that provides a tunable alert) associated with said at least one enhancement selection (sports) in said plurality of receiving units including said receiving unit that detects and acquires data (a sports game) associated with said identifier and that stores said data in a memory of said receiving unit (pg. 9 sect. 0080). Arai teaches obtaining computer program code through broadcasting (col.1 ll. 9-14). The combination of Schrader in view of Arai results in obtaining said computer code through a broadcast.

Regarding claim 5, Schrader further discloses associating a link with said at least one data element wherein said link is activated if the display of said at least one data element is selected by a user (page 10 section 0083, buttons associated with enhancement data may access Web sites).

Regarding claim 6, Schrader further discloses associating executable program code with said at least one data element wherein said code is executed if the display of said at least one data element is selected by a user (pg. 3 sect.

0039 "The client system processes such data to create real-time visual indicators and cues and presents the visual indicators and cues together with IP data. Thus, for example, data corresponding to current status indicators of available sporting events and for invoking specific actions are provided to the client system").

Regarding claim 8, when read in light of claim 1, Schrader further teaches responsive to receiving the request from said receiving unit for said at least one enhancement selection of said plurality of enhancement selections, broadcasting computer program code (application that provides a tunable alert) associated with said at least one enhancement selection (pg. 8 sect. 0075 News, see fig. 9 ) to said receiving unit that detects and acquires data ("Tune now for report on Company X!") associated with said identifier and that stores said data in a memory of said receiving unit (pg. 8 sect. 0075). Arai teaches obtaining computer program code through broadcasting (col.1 ll. 9-14). The combination of Schrader in view of Arai results in obtaining said computer code through a broadcast.

Regarding claim 9, see analysis of claim 5.

Regarding claim 10, see analysis of claim 6.



Regarding claim 11, see analysis of claim 1.

Regarding claim 12, Schrader further discloses transmitting said first data element addressed to said receiving unit prior to broadcasting said least one data element and said identifier to said plurality of receiving units including said receiving unit (pg. 4 sect. 0043-0044 discuss assigning a higher transmission priority to real-time data and lower priorities to other data. In the case of a single transmission accommodating all priority levels real-time data would be received at a receiving unit prior to other related data).

Regarding claim 13, Schrader teaches a method of replicating a portion of a data structure stored in an upstream device of a broadcast system in a receiving unit of said broadcast system and displaying an element of said data structure at said receiving unit (page 8 section 0076), the method comprising: receiving a broadcast at said receiving unit (page 3 section 0033, figure 1); enhancement computer program code (pg. 7 sect. 0065 "The CPU executes software designed to implement features of the client system 100 including features of the present invention", pg. 7 sect. 0066 "Computer readable instructions or data, including an application program 544, other program modules 546 and an electronic program guide (EPG) database") in a plurality of receiving units including said receiving unit (pg. 3, sect. 0033 refers to multiple client systems) wherein said code defines a data structure within a memory of

said receiving units (pg. 9 sect. 0078), provides a menu (navigation guide, pg. 9 sect. 0078) having a plurality of enhancement selections (figure 9: on now, on later, scores, news), associates an identifier (Event ID) with at least one enhancement selection (figure 9: element 918 with plurality of buttons) of said plurality of enhancement selections, and enables said receiving unit to request for and acquire data using said identifier (figure 3: Event ID, as explained in page 8 sections 0073-75) including requesting for said at least one enhancement selection of said plurality of enhancement selections to be included in another broadcast (if a user selects ON NOW, the data associated with the EventIDs that are linked to ON NOW will be sent to the user, where data is broadcasted through the same satellite system 104 as television content in fig. 1); receiving a user input selecting said at least one enhancement selection from said menu (fig. 9 "on now"); monitoring a broadcast for said identifier, acquiring a data element associated with said identifier, storing said data element in said data structure in a memory of said receiving unit and displaying said data element (pg. 10 sect. 0087 "Real-time indications concerning the score and time remaining are presented", pg. 8 sect. 0076 explains how the real-time data is acquired).

Schrader does not teach the broadcast includes the enhancement computer program code.

Arai teaches obtaining computer software through a broadcast along with television programming (col. 1 ll. 9-14). It would have been obvious to one of

ordinary skill in the art to broadcast updated computer software, such as the enhancement computer program (navigation guide) disclosed in Schrader (e.g. fig. 8) along with the interleaved television programming and data services for the benefit of being able to update navigation guide software more frequently.

Regarding claim 14, Schrader further discloses monitoring said broadcast for said identifier (pg. 10 sect. 0087 "Real-time indications concerning the score and time remaining are presented", pg. 8 sect. 0076 explains how the real-time data is acquired);

acquiring enhancement processing program code associated with said identifier (pg. 3 sect. 0036 teaches "user interface information 326 for creating an enhanced navigation tool" where HTML is one of the formats used); and displaying said data element in accordance with said enhancement processing program code (figs. 8 and 9).

Regarding claim 15, Schrader further discloses receiving a user input selecting the display of said data element; and activating a link associated with said data element if said link exists (pages 9-10 section 0083, figure 8).

Regarding claim 16, Schrader further discloses receiving a user input selecting the display of said data element; and

executing computer program code associated with said data element if said code exists (page 8, section 0074-75).

Regarding claim 17, "receiving a user input selecting the display of said data element; and acquiring and processing data using a second identifier associated with said data element if said second identifier exists" reads on Schrader user selecting an alert, and the alert displaying an option to remotely record a show.

Regarding claim 18, see analysis of claim 13

Regarding claim 19, see analysis of claim 13.

Regarding claim 20, see analysis of claim 15.

Regarding claim 21, see analysis of claim 16.

Regarding claim 22, see analysis of claim 17.

Regarding claim 23, Schrader teaches an indicator that no additional data elements associated with said request remain to be broadcast (figure 10, element 1002 "10:00 left in the 2<sup>nd</sup> qtr.").

Regarding claim 24, Schrader teaches a receiving unit (figure 5: element 120) that replicates a portion of a broadcast data structure comprising: a CPU (figure 5: element 532); a memory (figure 5, element 538); video hardware that produces an on-screen display of enhancement data elements (figure 5, element 560); and computer program code stored in said memory that defines a data structure (pg. 9 sect. 0078) and an enhancement menu (navigation guide, pg. 9 sect. 0078) having at least one enhancement selection associated with an identifier (figure 9:element 918 plurality of enhancement selections. "ON NOW" is presented) and that monitors a broadcast for said identifier and requests, acquires and stores a data element (page 9 section 0076, where the event was requested via selecting the tunable alert) associated with said identifier in said data structure, and displays said data element (i.e. NFL scores), if a user selects said at least one enhancement selection (figure 9, "ON NOW" is selected), wherein requesting for the data element associated with said identifier including requesting for said at least one enhancement selection of said plurality of enhancement selections to be included in another broadcast (if a user selects ON NOW, the data associated with the EventIDs that are linked to ON NOW will be sent to the user, where data is broadcasted through the same satellite system 104 as television content in fig. 1).

Regarding claim 25, Schrader further teaches code that issues a request to an upstream device for enhancement data associated with said at least one enhancement selection in response to a user input selecting said at least one enhancement selection (page 9 section 0079, where a user selects a navigation element and the system tunes to that program and updates the presented navigation elements).

Regarding claim 26, Schrader teaches the system of claim 25 further comprising:  
program code (page 3 section 0039) that receives a transmitted data element and that stores said transmitted data element in said data structure (pg. 9 sect 0078) in said memory (figure5: system memory 538).

Regarding claim 27, Schrader discloses a method of replicating a portion of an upstream device data structure in a receiving unit comprising:  
"determining enhancement content to be provided" reads on Schrader Sports Content Aggregator waiting for the occurrence of a particular event to broadcast related information (page 8 section 0076);  
creating an enhancement broadcast schedule (page 8 section 0076);  
creating an enhancement menu having a plurality of enhancement selections (figures 8-16);  
associating an identifier with at least one enhancement selection of said plurality

of enhancement selections (page 8 section 0076);  
broadcasting said enhancement menu to a plurality of receivers (page 8 section 0076);  
receiving a request from said receiving unit for said at least one enhancement selection (if a user selects ON NOW, the data associated with the EventIDs that are linked to ON NOW will be sent to the user)  
accessing a plurality of data elements for said enhancement menu selections (pages 8-9, section 0076);  
associating said identifier with at least one data element of said plurality of data elements (pages 8-9, section 0076); and  
broadcasting said at least one data element and said identifier to a plurality of receiving units including said receiving unit (page 9, section 0076).

Regarding claim 28, see analysis of claim 18.

Regarding claim 29, see analysis of claim 11.

Regarding claim 30, Schrader teaches creating a transmission schedule including said first data element (page 6 section 0056).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASMINE STOKELY-COLLINS whose telephone number is (571) 270-3459. The examiner can normally be reached on M-Th 9:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jasmine Stokely-Collins/  
Examiner, Art Unit 2423

/Andrew Y Koenig/  
Supervisory Patent Examiner, Art Unit 2423